

REMARKS

Reconsideration is respectfully requested.

As amended, claims 1-4 and 6-14 are pending. Claims 4 and 6-9 have been withdrawn from consideration. Therefore, only claims 1-3 and 10-14 are at issue.

Claims 1-3 are amended to delete subject matter recited in the alternative. Claims 9-12 are amended for clarification and to remove multiple dependencies. New claims 13 and 14 have been added to recite subject matter of original claims 11 and 12. Claims 13 and 14 read on the provisionally elected species. No new matter has been added

Objections

Claims 11 and 12 have been objected to as being in improper because a multiple dependent claim cannot depend from another multiple dependent claim.

Claims 11 and 12 have been amended to eliminate multiple dependencies. Accordingly, the basis for the objection has been addressed. Withdrawal of the objection is respectfully requested.

Claim Rejections under 35 U.S.C. § 102

Claims 1-3, 5, and 10 have been rejected under 35 U.S.C. § 102(e) as being anticipated by Borzilleri et al., US 2006/0004006 (“Borzilleri”).

Applicants respectfully submit that Borzilleri is not prior art to the present application. Borzilleri published from an application filed June 24, 2005. The present application is the national stage entry of international application PCT/EP2004/013430 filed November 26, 2004. Accordingly, Borzilleri is not prior art under 102(e). Withdrawal of the rejection is respectfully requested.

It is noted that Borzilleri claims the benefit of the filing of two provisional applications. However, the Office Action does not specify whether Borzilleri is entitled to this benefit for the subject matter that is relied upon in the present rejection. Because it is silent on

the issue, Applicants do not know the 102(e) date of Borzilleri applied by the Examiner. If the Examiner intends to maintain the rejection, clarification is requested.

In any event, the present application claims priority of German application 103 57 510.3, which was filed December 9, 2003. If the Examiner determines Borzilleri to have a 102(e) date that precedes the PCT filing date of the present application, Applicants will submit an English translation of the certified priority document as required by 37 C.F.R. § 1.55.

Claim Rejections under 35 U.S.C. § 112

Claim 5 has been rejected under 35 U.S.C. § 112, first paragraph, because the specification is allegedly not enabling for the treatment of the claimed disorders.

Without conceding the validity of the rejection, claim 5 has been canceled. Accordingly, the rejection is moot.

Claims 1-3, 5, and 10 have been rejected under 35 U.S.C. § 112, first paragraph, because the specification is allegedly not enabling for compounds where R⁶ is other than as defined in claim 3 and where R⁷ is a 5- or 6-membered heteroaryl.

Without conceding the validity of the rejection, claims 1-3 have been amended so that R⁶ is as defined in claim 3 and to remove 5- or 6-membered heteroaryl from the definition of R⁷. Withdrawal of the rejection is respectfully requested.

CONCLUSION

The application is believed to be in condition for allowance. If a telephone conference with Applicant's representative would be helpful in expediting prosecution of the application, Applicant invites the Examiner to contact the undersigned at the telephone number indicated below.

Dated: January 6, 2011

Respectfully submitted,

Electronic signature:

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